

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
DANIAL MOVAHHED, ) Case No: 2:19CR0093-15  
 )  
Defendant. )  
 )  
\_\_\_\_\_ )  
 )  
 )

BEFORE THE HONORABLE BROOKE C. WELLS

August 9, 2022

ATTORNEY APPOINTMENT HEARING

Reported by:  
KELLY BROWN HICKEN, RPR, RMR  
801-521-7238

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APPEARANCES OF COUNSEL

FOR THE GOVERNMENT:

OFFICE OF THE US ATTORNEY

BY: STEWART YOUNG

Attorney at Law

111 MAIN STREET, 1800

SALT LAKE CITY, UTAH 84111

FOR THE DEFENDANT:

SNOW CHRISTENSEN & MARTINEAU

BY: NATHAN A. CRANE

Attorney at Law

10 EXCHANGE PLACE 11TH FL

SALT LAKE CITY, UTAH 84145

1 SALT LAKE CITY, UTAH, TUESDAY, AUGUST 9, 2022

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3 THE COURT: Let's go now on the record in the  
4 matter of United States of America vs. Danial Movahhed. This  
5 is Case Number 2:19-CR-93-15 assigned to Judge Campbell and  
6 referred to me when the case was first filed some years ago.

7 The United States is represented by Mr. Stewart  
8 Young. Mr. Movahhed is not present, not personally present  
9 because he's confined in federal custody in Lompoc,  
10 California. He is not present by video or by phone because of  
11 inability to make contact with the officials, Bureau of  
12 Prisons officials. And I don't mean to say that we didn't  
13 try. We did. They have not been cooperative in terms of  
14 scheduling this matter or even getting back to the Court. In  
15 fact, at the first case I was told I had to send a copy of my  
16 credentials to the Lompoc before they would deal with me. I  
17 guess they thought you could, you know, invent a courthouse or  
18 something.

19 So he is not present, nor does he know of this  
20 hearing. But at the last hearing the matter of the  
21 appointment of counsel was left open. And in the interim I  
22 decided to ask Mr. Crane and --

23 I'm sorry. What is your name again?

24 MS. SHAW: LaShel Shaw, Your Honor.

25 THE COURT: All right.

1                   -- to act as counsel for Mr. Movahhed in the  
2     remaining matters that he has before the Court.

3                   Now, I will tell you that he filed two motions with  
4     Judge Campbell. One of them was a motion that Rudy Batista  
5     who represented him previously withdraw. But the issue there,  
6     and I allowed Mr. Batista to withdraw, although that wasn't  
7     really a difficult decision because the case had effectively  
8     been over for -- since the time Mr. Movahhed was sentenced  
9     because he entered appeal waivers. So that motion was  
10    previously denied.

11                  However, the second motion was left open, and that  
12    is the one we're going to deal with today in moving forward,  
13    and that is his motion for compassionate release. Because he  
14    has had no counsel for that and under this court's new  
15    protocol for compassionate release it is my understanding that  
16    counsel is appointed.

17                  Is that correct, Mr. Young?

18                  MR. YOUNG: As far as I know, Your Honor, yeah.

19                  THE COURT: All right. And in this matter I also,  
20    because of Mr. Movahhed's inability to be present, I've asked  
21    for a court reporter to be present to take down this hearing  
22    so that it may be forwarded to Mr. Movahhed so he understands  
23    what has happened here.

24                  And what I am going to do, Mr. Crane, is appoint  
25    you to represent him in the matter of motion for compassionate

1 release. I want to also ask you to look at the previously  
2 denied motion to see if there is anything that needs to be  
3 reconsidered in that regard.

4 The United States -- there is this protocol in  
5 place on these motions for compassionate release. And I was  
6 just handed these 122 pages of memorandum and papers related  
7 to his case, medical treatment refusal, it's in support of his  
8 motion for compassionate release. It is also the government's  
9 response there, too.

10 So, Mr. Crane, you're going to need to review with  
11 him these matters and see what needs to come forward on his  
12 behalf. I don't have any particular timelines in place. It's  
13 taken quite a bit of time. These motions were filed -- excuse  
14 me. These motions were filed in May and June of this year.  
15 So it's -- they've been pending a while. I assume you're  
16 going to have to contact him via mail. It may necessitate  
17 going to Lompoc, worse places in the world than, you know, the  
18 Santa Barbara area. But nonetheless, you know, maybe that's  
19 your only way to communicate with him. And under the Second  
20 Chair Program I don't know how that would work financially for  
21 you, but it may be necessary. But we're going to send him a  
22 copy of this transcript as well as these documents and so that  
23 he knows what's happening.

24 So that the transcript is complete I'm going to  
25 give Mr. Movahhed the same advice in this written form that I

1 would give him if he were here, and that's about his need to  
2 cooperate fully with you and any authorized representative of  
3 yours. I'm going to tell him or I am telling him that what he  
4 says to you is confidential and that he -- but what he says  
5 about his case to others is not confidential. But this motion  
6 for compassionate release kind of takes on a different, you  
7 know, a different twist to it.

8 So I'm not sure there's much more to say. It's  
9 kind of wide open. I will give you this and ask you to --

10 Kelly, if you'll make that transcript as soon as  
11 possible. I know it's a bit disjointed, but then send maybe a  
12 certified copy to Mr. Crane, and we can go from there. And  
13 maybe we should send him a copy, as well. I think we have his  
14 inmate number and address at Lompoc. But then you can get in  
15 touch with him, Mr. Crane, and I know you'll do so.

16 So is there -- it's kind of a wide open thing.  
17 It's not the usual appointment. But anybody have any  
18 questions?

19 MR. YOUNG: Just one, Your Honor. If I do remember  
20 correctly, we did file a response --

21 THE COURT: Yes.

22 MR. YOUNG: -- already. And then the Court was  
23 like, you're a little bit early in filing this response.

24 THE COURT: Because it's not part of the protocol.

25 MR. YOUNG: Exactly. So would the Court like us to

1       await kind of a supplement from Mr. Crane and his office, and  
2       then we can essentially kind of either re-file or supplemental  
3       file our responses? Does that make -- I think that makes the  
4       most sense.

5               THE COURT: It does make the most sense. You're  
6       right. You're right.

7               So, Mr. Crane, I think you can find the protocol on  
8       the website, or Mr. Young will have a copy of it. And it does  
9       allow for you to file something on behalf of Mr. Movahhed,  
10      although he's done quite a bit himself. But it will also tell  
11      you what the timelines are, et cetera. It's just not  
12      something that we're all that used to dealing with. So, okay?

13              MR. CRANE: Yeah.

14              THE COURT: All right.

15              MR. CRANE: The 100-plus pages, Your Honor has,  
16      it's not under seal, is it? It's in open file so we can  
17      access it?

18              THE COURT: No. It's not under seal, I don't  
19      believe.

20              MR. CRANE: Perfect.

21              MR. YOUNG: I think with the medical records I  
22      think we might have actually filed it under -- I thought we  
23      filed it under seal.

24              THE COURT: Well, I noticed all of these medical  
25      records, but I don't see anything about being under seal.

1 THE CLERK: Yeah, it was on the docket filed --

2 THE COURT: It was filed under seal.

3 MR. YOUNG: We're happy to send -- my assumption, I  
4 don't remember if Steve did this or I did this, we've done so  
5 many of these. My assumption is we have it electronically so  
6 we can forward it to Mr. Crane's office.

7 MR. CRANE: Perfect.

8 THE COURT: All right. That's great. Thank you.  
9 Thank you again for taking on this. And I'll pass this to  
10 you.

11 Thank you. We're in recess.

12 MR. CRANE: Thank you, Your Honor.

13 MR. YOUNG: Thank you very much, Your Honor.

14 (Whereupon, the court proceedings were concluded.)

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1 STATE OF UTAH )

2 ) ss.

3 COUNTY OF SALT LAKE )

4 I, KELLY BROWN HICKEN, do hereby certify that I am  
5 a certified court reporter for the State of Utah;

6 That as such reporter, I attended the hearing of  
7 the foregoing matter on August 9, 2022, and thereat reported  
8 in Stenotype all of the testimony and proceedings had, and  
9 caused said notes to be transcribed into typewriting; and the  
10 foregoing pages number from 3 through 8 constitute a full,  
11 true and correct report of the same.

12 That I am not of kin to any of the parties and have  
13 no interest in the outcome of the matter;

14 And hereby set my hand and seal, this \_\_\_\_ day of  
15 \_\_\_\_\_ 2022.

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KELLY BROWN HICKEN, CSR, RPR, RMR

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